



## **DEPARTMENT OF LABOR**

### **Employment and Training Administration**

#### **Employment and Training Administration (ETA) Program Year (PY) 2021**

#### **Workforce Innovation and Opportunity Act (WIOA) Section 167, National**

#### **Farmworker Jobs Program (NFJP) Proposed Modifications to Allotment Formula**

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice; request for comments.

**SUMMARY:** This Notice announces proposed modifications to the allotment formula for the National Farmworker Jobs Program (NFJP), which is authorized under the Workforce Innovation and Opportunity Act (WIOA), Section 167, and presents preliminary State planning estimates for Program Year (PY) 2021. These allotments are estimates based on the funds appropriated in the Consolidated Appropriations Act, 2021 (from this point forward will be referred to as the “the Act”). The U.S. Department of Labor (DOL), Employment and Training Administration (ETA) will accept comments related to the allotment methodology, including modifications and the hold-harmless provision.

**DATES:** The PY 2021 NFJP allotments become effective for the grant period that begins July 1, 2021. Written comments on this notice are invited and must be received on or before May 24, 2021.

**ADDRESSES:** Comments are accepted via email to [NFJP@dol.gov](mailto:NFJP@dol.gov). Please enter “PY21 National Farmworker Jobs Program Grantee Allotments Public Comment” in the subject line of the email.

#### **FOR FURTHER INFORMATION CONTACT:**

Questions on this notice can be submitted to the Employment and Training Administration, Office of Workforce Investment, Attention: Laura Ibañez, Unit Chief,

(202) 693-3645 or Steven Rietzke, Division Chief at (202) 693-3912, or at

NFJP@dol.gov.

Individuals with hearing or speech impairments may access the telephone numbers above via TTY by calling the toll-free Federal Information Relay Service at 1-877-889-5627 (TTY-TDD).

**SUPPLEMENTARY INFORMATION:** This notice is published according to Section 182(d) of the WIOA, Prompt Allotment of Funds. ETA developed the formula to distribute funds geographically by state service area, based on each state service area's relative share of persons eligible for the program. The formula's original methodology is described in the *Federal Register* notice 64 FR 27390, May 19, 1999. That information is accessible at <https://www.federalregister.gov/>. In PY 2018, ETA incorporated two modifications to the allotment formula to provide more accurate estimates of each state service area's relative share of persons eligible for the program. The formula also used updated data from each of the four data files serving as the basis of the formula since 1999. The revised formula methodology is described in the *Federal Register* notice 83 FR 32151, July 11, 2018.

Beginning in PY 2021, ETA is making two modifications to the allotment formula. These modifications will improve the formula's accuracy in terms of estimating the true NFJP-eligible population in state service areas, and one of the modifications is necessitated by a recent statutory change to the NFJP eligibility criteria, which Congress enacted in the FY 2021 appropriation. Section II includes further explanation of these modifications. This Notice includes the following sections:

- Section II of this notice provides a discussion of the updated data that will be used to populate the formula and the proposed formula modifications.
- Section III describes the hold-harmless provision for the implementation year and the following years. The hold-harmless provision is designed to provide a staged transition from old to new shares of funding for State service areas.
- Section IV describes minimum funding provisions to address State service areas that would receive less than \$60,000.
- Section V describes the application of the formula and the hold-harmless provision using preliminary planning estimates for PY 2021.

This notice represents the first of a two-stage process. Upon receipt of public comments regarding this notice related to the formula methodology and modifications, ETA will consider comments and finalize the formula methodology and results. In the second stage, ETA will publish the final formula and final allotment levels in the *Federal Register*.

## **I. Background**

The Department is announcing preliminary PY 2021 allotments for the National Farmworker Jobs Program (NFJP). This notice provides information on the amount of funds available during PY 2021 to state service areas awarded grants through Funding Opportunity Announcement FOA-ETA-20-08 for the NFJP Career Services and Training grants and Housing grants. Funds to implement NFJP are appropriated in the Act. In appropriating these funds, Congress provided \$87,083,000 for formula grants (of which \$86,946,000 was allotted after \$137,000 was set aside for program integrity), \$6,256,000 for migrant and seasonal farmworker housing (of which not less than 70 percent shall be for permanent housing), and another \$557,000 was set aside for discretionary purposes. Included below is the table listing the preliminary PY 2021 allotments for the NFJP Career Services and Training grants. Individual grants are awarded for Housing as a

result of the grants competition and are further distributed according to language in the appropriations law requiring that of the total amount available, not less than 70 percent shall be allocated to permanent housing activities, leaving not more than 30 percent to temporary housing activities.

## **II. Description of Data Files and Review of PY 2021 Modifications to the Allotment Formula**

As with all state planning estimates since 1999, the PY 2021 estimates are based on four data sources: 1) State-level, 2017 hired farm labor expenditure data from the United States Department of Agriculture's (USDA) Census of Agriculture (COA); 2) regional-level, 2017 average hourly earnings data from the USDA's Farm Labor Survey; 3) regional-level, 2010-2018 demographic data from the ETA's National Agricultural Workers Survey (NAWS); and, 4) 2015-2019 (5-year file) data from the United States Census Bureau's American Community Survey (ACS). A detailed description of how each data source is used within the formula is in the Federal Register notice 64 FR 27390, May 19, 1999). In addition to populating the formula with updated data, ETA is proposing two modifications that will improve the formula's accuracy in terms of estimating the true NFJP-eligible population in state service areas, and one of the modifications is necessitated by the change to the NFJP eligibility criteria applicable to the PY 2021 appropriation.

- 1) First, the Act expands program eligibility for grants funded by the PY 2021 appropriation to include farmworkers who are in families with total family incomes at or below 150 percent of the poverty line. Previously, the definition of a low income individual in WIOA section 3(36)(A)(ii) was based on whether the individual was in a family with a total family income that did not exceed the higher of the poverty line or 70 percent of the lower living standard income level. As noted above, a provision to expand program eligibility is included in the

appropriations language for PY 2021. It applies to grant activities funded under the PY 2021 awards. Therefore, the PY 2021 allocations will use special tabulations of data from the American Community Survey (ACS) that reflect farmworkers with total family incomes at or below 150 percent of the poverty line. ETA will subsequently revise the PY 2022 guidance regarding the definition of “low-income individual,” as needed if the same provision is not included in subsequent appropriations.

- 2) Second, and to more closely align the formula with the definition of eligible migrant and seasonal farmworker under WIOA Section 167(i) and 20 CFR 685.110 and clarified in the Training and Employment Guidance Letter 18-16, ETA proposes modifying how the formula accounts for crop workers who are primarily employed in agriculture. Previously, for the formula, a crop worker was considered to be primarily employed in agriculture if 1) at least 50 percent of their total individual income was from farm work, and 2) if they worked at least 25 days or earned at least \$800 in crop farm work in the previous 24 months. ETA proposes the formula consider a crop worker to be primarily employed in agriculture if at least 50 percent of their total individual income is from farm work or at least 50 percent of their total employment time is in farm work.<sup>1</sup> As with all state planning estimates since 1999, ETA will use NAWS data to determine the share of crop labor hours in each state that was performed by crop workers who were primarily employed in agriculture, per this eligibility criterion. This modification only applies to estimates of NFJP-eligible labor hours performed by crop workers, because the data that would be needed to similarly estimate NFJP-eligible labor hours performed by animal agricultural (livestock) workers are not

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<sup>1</sup> To determine “primarily employed in agriculture” criteria, which has two parts, ETA uses individual income from farm work.

available. As with previous allocations of NFJP grant funds, updating the data sources used in the formula and modifying the NFJP eligibility criteria will result in changes in each state's relative share of funding. Therefore, ETA mitigates large changes in state allotments by using the StopLoss/StopGain provisions discussed in Section III.

### **III. Description of the Hold-Harmless Provision**

ETA is proposing to continue the hold-harmless provision as instituted in PY 2018. The updated data resulted in significant changes for a few states and the hold-harmless provision provides for a stop loss/stop gain limit to transition to the use of the updated data. This approach is based on a state service area's previous year's allotment percentage, which is its relative share of the total formula allotments. ETA will implement the staged transition of the hold-harmless provision as follows:

- 1) In PY 2021, each state service area will receive an amount equal to at least 95 percent of their PY 2020 allotment percentage, as applied to the PY 2021 formula funds available;
- 2) In PY 2022, each state service area will receive an amount equal to at least 90 percent of their PY 2021 allotment percentage, as applied to the PY 2022 formula funds available;
- 3) In PY 2023, each state service area will receive an amount equal to at least 85 percent of their PY 2022 allotment percentage, as applied to the PY 2023 formula funds available.

In PY 2021, 2022, and 2023, the stop gain provision provides that no state service area will receive an amount that is more than 150 percent of their previous year's allotment percentage.

In PY 2024, since the Department has a responsibility to use the most current and reliable data available, amounts for the new awards will be based on updated data from

the sources described in Section II, pending their availability. At that time, the Department will determine whether the changes to state allotments are significant enough to warrant another hold-harmless provision. Otherwise, allotments to each state service area will be for an amount resulting from a direct allotment of the proposed funding formula without adjustment.

#### **IV. Minimum Funding Provisions**

A state area that would receive less than \$60,000 by application of the formula will, at the option of the DOL, receive no allotment or, if practical, be combined with another adjacent state area. Funding below \$60,000 is deemed insufficient for sustaining an independently administered program. However, if practical, a state jurisdiction that would receive less than \$60,000 may be combined with another adjacent state area.

#### **V. Program Year 2021 Preliminary State Allotments**

The state allotments set forth in the Table appended to this notice reflect the distribution resulting from the allotment formula described above. For PY 2020, \$91,896,000 was appropriated for migrant and seasonal farmworker programs, of which \$85,229,000 was appropriated for training grants and allotted based on the PY 2018 formula updates. The remaining \$6,122,000 of the PY 2020 appropriation was retained to fund housing grants, and \$545,000 was retained for Training and Technical Assistance. The figures in the first numerical column show the actual PY 2020 formula allotments to state service areas. The next column shows the percentage share of each allotment to the total available.

For PY 2021, the funding level provided for in the Act for the migrant and seasonal farmworker program is \$93,896,000 of which \$87,083,000 was appropriated for training grants. After allowable funds are set aside for program integrity (\$137,000), the Department will allot \$86,946,000 for training grants based on the formula and data outlined in this notice. For purposes of illustrating the effects of the updates to the

allotment formula, columns 3 and 4 show the state service area allotments with the application of the first-year (95 percent) hold-harmless and minimum funding provisions, followed by the percentages. The difference between PY 2021 and PY 2020 allotments is shown in column 5. Column 6 of the Table shows the allotments based on the proposed formula without the application of the hold-harmless or minimum funding provisions. The percentages are reported in column 7.

**U. S. Department of Labor  
Employment and Training Administration  
National Farmworker Jobs Program – Career Services and Training Grants  
Impact of Proposed Changes on PY 2021 Allotments to States**

State	PY 2020		PY 2021				
	Allotment  (1)	Percentage Share  (2)	With hold harmless			Without hold harmless	
			Allotment  (3)	Percentage Share  (4)	Difference (PY 2021 vs. PY 2020) (5)	Allotment  (6)	Percentage Share  (7)
<b>Total</b>	<b>\$85,229,000</b>	<b>100.00000</b>	<b>\$86,946,000</b>	<b>100.00000</b>	<b>\$1,717,000</b>	<b>\$86,946,000</b>	<b>100.00000</b>
Alabama	801,605	0.94053	776,866	0.89350	(24,739)	774,531	0.89082
Alaska	-	0.00000	-	0.00000	-	-	0.00000
Arizona	2,538,153	2.97804	2,459,822	2.82914	(78,331)	2,547,948	2.93049
Arkansas	1,144,067	1.34234	1,193,276	1.37243	49,209	1,262,754	1.45234
California	23,333,261	27.37714	22,613,160	26.00828	(720,101)	23,114,407	26.58478
Colorado	1,347,060	1.58052	1,662,689	1.91232	315,629	1,759,499	2.02367
Connecticut	402,388	0.47213	501,264	0.57652	98,876	530,450	0.61009
Delaware	155,864	0.18288	154,593	0.17780	(1,271)	163,594	0.18816
Dist of Columbia	-	0.00000	-	0.00000	-	-	0.00000
Florida	3,763,684	4.41597	3,647,531	4.19517	(116,153)	3,159,183	3.63350
Georgia	1,671,697	1.96142	1,656,566	1.90528	(15,131)	1,753,019	2.01622
Hawaii	322,061	0.37788	312,122	0.35898	(9,939)	157,635	0.18130
Idaho	1,777,707	2.08580	2,194,625	2.52412	416,918	2,322,406	2.67109
Illinois	1,746,897	2.04965	1,829,288	2.10394	82,391	1,935,797	2.22644
Indiana	1,145,731	1.34430	1,229,140	1.41368	83,409	1,300,706	1.49599
Iowa	1,588,068	1.86330	1,756,778	2.02054	168,710	1,859,065	2.13818
Kansas	1,220,211	1.43169	1,243,435	1.43012	23,224	1,315,834	1.51339
Kentucky	1,044,219	1.22519	1,011,993	1.16393	(32,226)	836,164	0.96170
Louisiana	798,040	0.93635	782,626	0.90013	(15,414)	828,194	0.95254
Maine	328,886	0.38589	408,044	0.46931	79,158	431,802	0.49663
Maryland	386,681	0.45370	521,061	0.59929	134,380	551,400	0.63419
Massachusetts	364,444	0.42761	512,780	0.58977	148,336	542,637	0.62411
Michigan	2,129,494	2.49856	2,073,573	2.38490	(55,921)	2,194,306	2.52376
Minnesota	1,629,902	1.91238	1,579,601	1.81676	(50,301)	1,664,564	1.91448
Mississippi	1,026,761	1.20471	995,074	1.14447	(31,687)	922,368	1.06085
Missouri	985,363	1.15614	1,219,415	1.40250	234,052	1,290,415	1.48416
Montana	628,528	0.73746	699,452	0.80447	70,924	740,177	0.85131
Nebraska	1,295,534	1.52006	1,255,552	1.44406	(39,982)	1,319,642	1.51777
Nevada	190,893	0.22398	223,924	0.25754	33,031	236,962	0.27254
New Hampshire	115,590	0.13562	145,953	0.16787	30,363	154,451	0.17764



New Jersey	602,990	0.70749	769,856	0.88544	166,866	814,680	0.93700
New Mexico	1,049,022	1.23083	1,067,856	1.22818	18,834	1,130,032	1.29969
New York	1,574,968	1.84793	2,169,172	2.49485	594,204	2,295,471	2.64011
North Carolina	2,638,326	3.09557	2,556,903	2.94079	(81,423)	2,107,580	2.42401
North Dakota	828,016	0.97152	802,462	0.92294	(25,554)	778,997	0.89595
Ohio	1,417,710	1.66341	1,437,210	1.65299	19,500	1,520,892	1.74924
Oklahoma	1,007,381	1.18197	976,292	1.12287	(31,089)	926,713	1.06585
Oregon	2,447,454	2.87162	2,371,922	2.72804	(75,532)	2,335,380	2.68601
Pennsylvania	1,485,920	1.74344	1,762,208	2.02678	276,288	1,864,813	2.14479
Puerto Rico	2,420,800	2.84035	2,346,090	2.69833	(74,710)	2,043,240	2.35001
Rhode Island	60,713	0.07124	64,858	0.07460	4,145	68,635	0.07894
South Carolina	811,276	0.95188	786,239	0.90428	(25,037)	695,074	0.79943
South Dakota	610,598	0.71642	665,710	0.76566	55,112	704,471	0.81024
Tennessee	894,737	1.04980	867,124	0.99731	(27,613)	631,232	0.72600
Texas	5,281,950	6.19736	5,118,941	5.88749	(163,009)	4,630,482	5.32570
Utah	466,894	0.54781	653,979	0.75217	187,085	692,057	0.79596
Vermont	185,768	0.21796	204,723	0.23546	18,955	216,643	0.24917
Virginia	1,002,595	1.17635	971,653	1.11754	(30,942)	784,640	0.90245
Washington	4,518,313	5.30138	4,510,391	5.18758	(7,922)	4,773,008	5.48962
West Virginia	155,408	0.18234	150,612	0.17322	(4,796)	112,164	0.12900
Wisconsin	1,639,775	1.92396	1,719,060	1.97716	79,285	1,819,152	2.09228
Wyoming	245,597	0.28816	312,536	0.35946	66,939	330,734	0.38039

**Suzan G. LeVine,**

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*Employment and Training, Labor.*

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